

Minutes

**Agricultural & Natural Resources Advisory Committee
Thursday, November 14, 2013, at 9:00 am
Charlotte County Administrative Center
18500 Murdock Circle, Room #B-207
Port Charlotte, FL 33948-1094**

MEMBERS PRESENT

Andy Dodd, Chairman
Wes Brumback, Vice Chairman
Orrin Webb, Secretary
Dan Ryals
Matthew Sullivan, Jr.
Lindsey Harrington

MEMBERS EXCUSED

Steve Smith
Chris Hencher

MEMBERS ABSENT

GUEST

Robert H. Berntsson, Esq.
Elizabeth Andres
Andy Neuhofer
Gary Bayne
Ron Hamel

STAFF

Matt Trepal, Staff Liaison
Inga Williams, Principal Planner
Joanne Vernon, Assistant County Engineer
Ralph Mitchell, Staff Liaison, Extension Service

CALL TO ORDER/ROLL CALL/DETERMINATION OF QUORUM

The **November 14, 2013**, meeting of the ***Agricultural and Natural Resources Advisory Committee*** was called to order at 9:19 a.m. by ***Chairman Dodd*** who noted that there was a quorum present.

ADDITIONS/DELETIONS TO AGENDA

None.

The Chair also noted a change in procedure, in line with the law, that Public Comments be heard at the beginning of the meeting; he called for any such comment at this time.

PUBLIC COMMENTS

Mr. Ron Hamel mentioned that the IFAS administration had contemplated reducing activity at the Immokalee center, but after industry leaders weighed in, administration backtracked a bit and

offered that if industry would assist with funding, they would restore the center to its former functionality. He suggested that it would be helpful to have a support letter from ANRAC and also the County Commission to help this happen. He also mentioned an upcoming strategy meeting to further discuss plans, and promised to keep the group updated on progress. Further discussion ensued on the original reasons for closing the center.

APPROVAL OF MINUTES

Chairman Dodd asked to have the minutes approved; **Mr. Sullivan** moved approval of the minutes of the September 12, 2013 meeting, second by **Mr. ?**. The motion carried with a unanimous vote.

NEW BUSINESS

None.

OLD BUSINESS

❖ Proposed Article XXIII Excavation and Earthmoving

Chairman Dodd asked if everyone had the chance to review the circulated draft in depth and then commented on the issues he had identified:

First, on page two of the clean version with line numbering (he wasn't sure of the section), regarding exempt items with three-acre maximum aggregate acreage of exempt excavations, **Chairman Dodd** suggested additional language was needed because currently it did not contemplate parcel size over 30 acres. He suggested adding verbiage "for sites greater than 30 acres, total area of exempt excavations on-site but exclusive of ditches shall not exceed ten percent" in order to accommodate large parcels sizes; and the same thing for the up-to-ten acre parcels (if the intent is to cap it at ten percent.) **Ms. Vernon** clarified that the intent was that each exempt excavation could be up to three acres but the aggregate total could only be ten percent, **Chairman Dodd** commented that once the property owner had a three-acre pond they could not have another; **Ms. Williams** responded that they could in fact have another, it would just no longer be an exempt activity. The question became why there should be any regulation at all; **Ms. Williams** indicated that this standard was the result of negotiations at prior roundtables that also included natural resource participants. **Commissioner Duffy** asked who the "natural resource" people were; **Ms. Williams** recollected that Percy Angelo was on that roundtable; those roundtable participants were challenged as being people who do not own farms. **Ms. Williams** gave her recollection of the prior process, noting that no one at those roundtables raised an objection to tracking farm ponds, and the Board then approved the new language. **Ms. Vernon** noted that the current exemption language was added so that owners wanting to dig a new "cow pond" would not have to come in to the County in order to proceed, but in terms of the revisions of the exemption, it was clear that the Board had said they wanted owners to come in with the exemption forms, and that was embodied in the last revisions that were passed. **Mr. Berntsson** said he saw a problem with trying to regulate both commercial excavations and agricultural uses in the same ordinance; he discussed the different responses to the proposed language. **Ms. Vernon** said that the proposed language meets the SWFWMD exemption. **Chair Dodd** asked Mr. Bayne what the SWFWMD exemption was; the response was that SWFWMD did not look at cow ponds; their exemption level otherwise is ten acres. Chair Dodd commented that their level was ten acres or ten percent, whichever is less. Ms. Vernon asked if they were suggesting leaving it at ten percent; the response was made to just eliminate it. Mr. Bayne suggested that on a 5,000 acre property that would be a 500 acre lake, which is not appropriate; the idea is to limit any given excavation to ten acres, with no limit on

the number of ten-acre excavations. It was also noted (Mr. Neuhofer?) that cow ponds aren't three acres, they are more likely a half-acre; the dirt isn't trucked off, it's piled up on the sides. He suggested that any normal agricultural practice such as digging a cow pond should be exempt by the Florida Right to Farm Act. **Commissioner Duffy** said she agreed. **Chair Dodd** noted that the language was also meant to cover other things like aquaculture, for which he said the three-acre exemption is appropriate. Further discussion ensued.

Commissioner Duffy stated that at the last Board meeting, she felt the Commission leaned toward revising the Comp Plan to be less restrictive, stating "this Commission is different than the Commission that did it just a few years ago." She agreed with following SWFWMD exemptions and the state's Right to Farm legislation. **Ms. Vernon** suggested making the limit ten acres per exemption; **Chair Dodd** said he'd be OK with that provided it was consistent with SWFWMD, which **Ms. Vernon** indicated was the case. Further discussion ensued over the limits at which even an exempt application would need to be made; the language indicated that under three acres, not even an exempt application needed to be submitted while between three and ten acres the work would still be exempt but the application for it needed to be filed. In any event, **Mr. Dodd** noted, the exempt activities should not exceed ten percent of the acreage, which was generally agreed to. The question was raised as to the form of the notification required to alert the County to the exempted work, and what the fee would be, which led to further discussion. Complaints were voiced about the \$200 fee; **Ms. Vernon** responded that the fee was added at the direction of the Board. **Commissioner Duffy** suggested making a recommendation to change that. Complaints were voiced about doing a tree survey; the suggestion was made that AG properties should be exempt from that, and that maybe an AG exempt specific form was needed. **Ms. Vernon** noted that all these suggestions could be taken back to the Board and to another roundtable meeting which the group agreed would be a good idea. **Commissioner Duffy** asked for a list of recommendations from the Committee and said that she would circulate it to the other commissioners; **Ms. Vernon** noted that another roundtable meeting was anticipated, with the results of that being walked around to the Commissioners. It was agreed that a letter from ANRAC to the Board would be helpful in arriving at the best results.

Chairman Dodd moved on to another instance of troubling language in the draft, noting that both the AG minor and the AG major permits do not permit removal of material from site, where a prior version did permit removal. He felt that he had heard the Board direct they would exempt any FARMS project as long as nothing came off site; he noted that FARMS projects are listed as an AG major. Therefore, he felt, you could have a 30-acre pond as an exempt project as long as nothing came off site. Further discussion ensued on how to interpret this direction, **Chairman Dodd** asserting that there was no intention to say that **no** AG pond was ever allowed to take dirt off-site – only if you want it to be exempt. **Commissioner Duffy** said she recalled that one Commissioner (Constance) had added it at the last minute and it passed; she also thinks it was intended to refer to exempt projects, and **Ms. Vernon** agreed.

Mr. Berntsson indicated he had a number of comments and intended to meet with Ms. Vernon later in the week to go over them; he noted that not all his comments were AG-related. He said he thought the ordinance was generally going in the right direction. He indicated he had some problems with some of the time frames and with items specific to Babcock Ranch, and he discussed those. He also objected to the change from "1,000 ft. from a residential structure" to "1,000 ft. from residential zoning" which he felt could have huge impacts on projects.

Chairman Dodd requested that Mr. Berntsson pick out his comments that pertain to AG and provide those so they could be incorporated into the Committee's communication with the Board.

Further discussion ensued over the exempt permit and fee; **Commissioner Duffy** voiced her opinion that no regulation should exceed the SWFWMD regulations. It was noted that exempt projects were reported to SWFWMD via letter, accompanied by a fee which it was thought was \$100. **Mr. Berntsson** suggested that the ordinance require a copy of the SWFWMD notification be provided to the County; **Ms. Vernon** reminded that under the new regs, the County cannot require to see permits from other agencies. Discussion followed on this point.

Mr. Neuhofer asked, if a project is legally exempt why do you have to tell anyone, and why is ANRAC recommending that the form be required? If it was that some people don't operate within the law, **Mr. Neuhofer** suggested: then go get those people, and leave the others alone. **Mr. Brumback** said that the notification could clarify when the operators interpretation of the law differed from the County's interpretation or what the law actually is; he said that, as a farmer, he doesn't mind filling out a form even with a nominal fee, as long as the form is reasonable. **Mr. Sullivan** said he disagreed. Discussion followed; **Ms. Vernon** said the group could recommend no form at all and have a fall-back position to a minimal form.

Mr. Brumback asked how everyone felt about the weekend hours, saying he didn't have any problem with the revised language, but was just bringing it up for discussion; **Mr. Berntsson** had a suggestion for a language change regarding initial permitting vs. renewals, and other sections. He also had questions about language protecting water, asking if this was regulated by SWFWMD or DEP, why duplicate; **Ms. Vernon** responded that this was another example of a situation where you could provide the state permit and not have to answer those questions. More discussion followed.

Commissioner Duffy raised a new question about hours of operation in the Rural Service Area, and asked what happened to the language about "if the neighbors within two miles don't mind". **Ms. Vernon** noted that had been removed because it provided an opportunity for unfriendly neighbors to have undue influence, and provided instead that the operator could get a variance. **Mr. Brumback** felt that this is less of an issue in East County than around e.g. Washington Loop, so the language could be restored, although there was sentiment that two miles was too great a distance. A mile was suggested as an alternative; also exempting all of East County from this restriction was suggested, and Bronco Rd. was suggested as a dividing line or the nearest section line for the "no restrictions" condition. There was some further discussion on this point.

❖ **Unified Land Development Code**

Chairman Dodd made comments regarding the most recent Board meeting and their recommendation that the process be slowed down at this point, and also direct attention to the Comp Plan, inasmuch as the staff has done an accurate reflection in the Code of the requirements of the Comp Plan, but this Commission may have different ideas about what should be in the Comp Plan. He felt the process was on a slower track now, with more workshops and roundtables in the future.

Mr. Trepal noted that Director Quick had put together an item to take to the next Commission meeting concerning getting formal recommendation from the Commission to push out the deadline for adoption of the Code and to bring up examining portions of the Comp Plan first instead, and setting a schedule for that. He spoke briefly about the Comp Plan process. He noted that staff is still anticipating having a completed draft of the Code done by the end of January. This finished document will be publicly available for review. Subsequent changes to

the Comp Plan can be reflected in the Code before adoption. He anticipated having clear direction from the Board at the next Commission meeting.

❖ **Animal Control**

Chairman Dodd updated the group, noting that Mr. Webb had met with John Flowers, the Sheriff's Office, the Fire Department, Animal Control, in order to arrive at a resolution. He turned the floor over to Mr. Webb to describe the outcome. **Mr. Webb** reported that it was decided to meet quarterly as a group. Questions on the incidents specific to Mr. McQueen were raised, as well as general questions as to how similar situations would be handled in future. Erecting signs having the owner's contact information on them was agreed to as a first step; it was acknowledged that there are people who are not association members who will not post such a sign. Therefore, one suggestion was to have an ordinance passed stating lands exempt due to being leased out for cattle on the lands would be required to have this sign. Additionally, if there is going to be enforcement, it needs to be against the land owner or the owner of the cattle, not a 'good Samaritan' that arrives to help out. **Mr. Webb** reported that the meeting was productive overall; the Cattlemens Association has not yet had its meeting with the Sheriff, but they are working on that. **Commissioner Duffy** asked how many ranches there were; **Mr. Webb** responded that the Tax Collector is probably the one with that information. He also suggested that for property owners leasing land to cattle, getting the exemption be tied to having the sign properly in place; he also stated that he knows from his travels around the state that most other counties already have this in place. There was also some discussion of what happens when an alternate person needs to be contacted, and the interaction with trespassing. It was indicated that the original complainant against Mr. McQueen had been on the property illegally prior to making the complaint. Further discussion ensued on this topic.

10:18:40

CORRESPONDENCE AND COMMUNICATIONS

Chairman Dodd noted that all items in this category were related to the Animal Control issue.

STAFF COMMENTS

Mr. Ralph Mitchell of the Charlotte County Extension Service mentioned the ongoing Green Industry BMP training, noting the training certificate gets participants their state license. He also discussed some specific plant disease and other training items.

COMMISSIONER COMMENTS

Commissioner Duffy offered remarks on the LDRs and possible changes to the Comp Plan, and indicated her anticipated remarks dealing with ANRAC matters for the next Commission meeting.

MEMBER COMMENTS

Chairman Dodd and Mr. Sullivan each indicated they were not completely convinced that an ordinance requiring the farm signage was really necessary and **Mr. Sullivan** also expressed curiosity about the County's authority to order such a thing. **Mr. Sullivan** mentioned the box count for oranges and the the kick-off for Peace River Citrus Products opening.

FUTURE MEETING TOPICS

None.

ANRAC Minutes

November 14, 2013

Page 6 of 6

GUEST COMMENTS

None.

NEXT MEETING

❖ *January 9, 2014 at 9:00 a.m. in Room B-207*

ADJOURNMENT

The meeting was adjourned at 10:30 a.m.

**To be approved by the Committee on:
January 9, 2014**

**Approved by the Committee on
January 9, 2014 and accepted by
the Secretary:**
